APPENDIX A.

Abstract of the Indian title to land contiguous to the City of Chicago, Illinois and lying just east of the original meander line surveyed by the United States in 1821.

By Charles Henry Butler.

TITLE PRIOR TO 1763.

1. Prior to 1763 Great Britain, France and Spain claimed the whole of the Atlantic seaboard and the Mississippi watershed by virtue of their rights of discovery and occupation, under the rule of international law that the European governments had the right to colonize and assert jurisdiction over all lands discovered by their subjects and which were not inhabited by civilized people. These claims were necessarily subject to the ownership of the soil by the Aboriginal tribes inhabitating the discovered country. The claims of France and Spain were eliminated by the treaties made in 1763, after the French and Indian wars, and the exclusive right of Great Britain, as a discovering country, to the whole of what now constitutes the Northwest Territory was admitted as between all European powers (see opinion of Chief Justice Marshall in *Johnson* v. *McIntosh*, U. S. Supreme Court, 1823, 8 Wheaton, 543).

2. Prior to 1763 Great Britain had entered into negotiations with various Indian tribes for the purpose of extinguishing the Indian title to the territory occupied by the colonists. The Six Nations recognized the sovereignty of Great Britain by a treaty made in 1744; subsequently a boundary line based upon this treaty was located upon Mitchell's Map, which will be referred to hereafter, and which has been admitted by the Governments of Great

Britain and the United States to be correct and accurate.

This line was a demarcation between Indian and British sovereignty as well as ownership, so far as it affects the property in question it commenced at the Mississippi River, passing thence up the Illinois River, and leaving it about 150 miles southwest of Lake Michigan, struck the lake at a point then called Quodagha (now Michigan City, Indiana) about forty miles southeast of Chicago; *from thence it passed through Lake Michigan* in a northerly direction along the easterly side of the lake at an average distance of about three miles from the eastern shore, to the Straits of Mackinaw, through which it passed into Canada, and from thence easterly through the Ottawa River to the St. Lawrence.

To the eastward of this line the sovereignty of Great Britain was recognized; to the westward, however, the title to the soil and the sovereignty over the territory remained in the Indians, and the treaty cessions by Spain and France conveyed to Great Britain no additional title to the soil, as there had been no relinquishment to those governments of their title by the Indians.

FROM 1763 TO 1783.

3. From 1763 to 1783 was the period of the struggle of the North American colonies of Great Britain for their independence, the eventual success whereof was evidenced by the treaties of peace between the United States and Great Britain, in which the independence of the colonies was recognized. During this period no treaties were made by any of the Indian tribes either with Great Britain or with the United States or any of the states or colonies which in any way affected the ownership of the Indian tribes of any of their territory west of the Indian line referred to in the last section, or of any territory which includes the property the title to which is under consideration.

NATIONAL BOUNDARIES AS FIXED BY TREATY OF 1783.

4. At the close of the Revolutionary War two treaties of peace were concluded between the United States and Great Britain, one known as the Provisional Articles was concluded at Paris, November 30, 1782 (*United States Treaties and Conventions,* 1889); also known as the Definitive Treaty of Peace, which simply consisted of the Provisional Articles re-executed and ratified as a final settlement September 3, 1783 (*United States Treaties and Conventions,* 1889, page 375; *United States Treaties in Force,* 1889, page 200).

Article II (identical in both treaties) fixed the boundaries of the United States as between the United States and Great Britain; that part of the line affecting the Northwest Territory is as follows:

> "Along the middle of the said Rivers (Iroquois or Carterqui) *into Lake Ontario; through the middle of said lake* until it strikes the communication by water between that lake and Lake Erie; *through the middle of said lake* until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence *through the middle of said lake* to the water communication between that Lake and Lake Superior; thence *through Lake Superior* northward of the Isles Royal and Philippeau to the long lake; thence through the middle of said long lake and water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most northwestern point thereof, and from thence on a due course to the River Mississippi, thence by way of a line to be drawn along the middle of said River Mississippi until it shall intersect the most northernmost part of the 31 degree of North latitude."

These boundary lines not only included all the territory claimed by the States under their original charters as colonies, but also a great tract which was afterwards known as the Northwest Territory. While Great Britain recognized these boundaries of the United States, renouncing all claim of ownership to everything included therein, it was wholly without regard to the Indian title; the rights of the Indians, who were not in any way represented in the negotiation of the treaties, remained exactly the same as to the United States as they had formerly existed as to Great Britain. All that Great Britain could do as to Indian titles which had not been extinguished prior to the recognition of the Independence of the United States, was to relinquish to the United States the right of extinguishing that title. The Indian titles formed a more important element in the peace negotiations of the treaty of Ghent, in 1814, after the conclusion of the War of 1812, than they did in 1783, for the experience of the countries after the close of the Revolutionary War showed them that the rights of the Indians and their ownership in the soil could not be disregarded without serious consequences to the people of both countries.

The Virginia Cession.

5. After the independence of the United States had been recognized questions arose between the States as to the ownership of a great extent of territory which had been included in boundaries fixed by the treaties as belonging to the United States, but which was not included within the admitted boundaries of any of the colonies. Some of the smaller States refused to accede to the Articles of Confederation until the larger States had either relinquished their claims to, or ceded, the Western Territory to the Central Government for two purposes: First, to prevent the great inequality in strength and size between the large and small States, and, secondly, to furnish the Central Government with the means of defraying the great debt

which had been incurred in the war for independence. This refusal finally resulted in a number of the States making cessions of territory to the Central Government; the one affecting the Northwest Territory concerns us the most, that being the cession made by Virginia of all of the territory claimed by the State northwest of the River Ohio under its charters and by virtue of the conquests made by Colonel George Rogers Clark.

ORDINANCE OF 1787.

6. On July 13, 1787, after accepting the cession, the Congress of the United States under the Confederation enacted the "Ordinance for the Government of the Northwest Territory" covering the territory of the United States northwest of the River Ohio. Meanwhile the question of Indian title to the territory of the United States had become a very serious one, and in the passage of the Northwest Ordinance the rights of the Indians were fully protected, not only for the benefit of the Indians, but also for the protection of the people of the States and to prevent the constant outbreak of Indian hostilities.

The Ordinance for the Government of the Northwest Territory is a part of the organic law of the United States. In the Revised Statutes, published by the Government, the following articles are described as the organic law of the United States of America: (1) Declaration of Independence, promulgated July 4, 1776; (2) the Articles of Confederation, adopted 1777-1783; (3) the Northwest Territorial Government, adopted 1787; (4) the Constitution of the United States, adopted 1787.

7. Section 14 of the Ordinance of 1787 (U. S. Revised Statutes 1878, p. 15, of Organic Laws) is as follows:

> "It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, be-

tween the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent."

Article III of that compact, which by its terms is to remain unalterable *forever*, and places good faith towards the Indians on the same basis as religion, morality and knowledge, is as follows:

"Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded upon justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them."

Article IV of the compact, looking forward to the time when States should be carved out of the Territory, provided that the legislatures of districts into which the territory should be laid out, "that new States shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to bona fide purchasers."

The Ordinance provided that in laying out judicial districts in the territory, proper divisions could be made thereof in those parts *"in which the Indian title shall have been extinguished."* So sacred has the Northwest Ordinance been considered that Mr. Justice Story, in his Commentaries on the United States, has declared that it is even paramount to the Constitution. Notwithstanding all of the changes and transfers from colonies and States to the United States, the laying out of divisions and subdivisions of territories and the acquisition and

admission of States, the organic or fundamental law of all of the States which have been carved out of the territory is paramount by the Ordinance of 178[illegible]; the rights of the Indians as they existed at or prior to the adoption of the Ordinance, and as they exist today, have been, and still are, protected by its terms, and *any Indian title which existed in* 1787, *and has not been extinguished by an actual cession by the Indians themselves, exists today with the same force and effect as it existed in* 1787.

Early Indian Treaties.

8. After the cessions had been made by Virginia and the other States, and the Northwest Ordinance had been adopted, and settlements began to be made in the Northwest Territory, the United States adopted the policy of extinguishing the Indian title wherever it could do so and a series of treaties were made with the Indian tribes.

The treaties which relate to property situated in the Northeastern part of Illinois and the adjoining waters of Lake Michigan were made with the Pottawatomie Indians, who, with the Ottawas and Chippewas, were the owners and sovereigns of that part of the North American continent, and have been so recognized since the earliest settlements in America.

The territory of the Pottawatomies extended from the line which was laid out on the Mitchell map (see Section 2 *ante*) at the eastern side of Lake Michigan westward over the lake, and what is now parts of the States of Indiana and Illinois to land of the Sacs and Foxes, who occupied the territory between the Western limits of the Pottawatomies and the Mississippi River. The Chippewas and Ottawas were allied with the Pottawatomies, and in dealing with the aboriginal owners of this part of the Northwest Territory of the United States generally associated those three nations with them. The general policy adopted by the Government in extinguishing the Indian title was to make a treaty in which lines were fixed, on one side of which the United States would

be the owner and sovereign of the soil, and on the other side the Indian title would remain intact, all claim thereto being relinquished by the United States and the Indians guaranteed in their ownership in and sovereignty over such lands.

9. The earliest treaty made by the United States with the Pottawatomie Indians was at Fort Harmar, January 9, 1789 (*Indian Treaty Volume*, 1825, p. 43) in which a boundary line was fixed between that, and other allied nations and the territory of the United States, as the treaty states, "to the end that the same may remain as a divisional line between the lands of the United States of America and the lands of said nations forever."

The Greenville Treaty.

10. The Fort Harmar treaty seems to have been succeeded by serious hostilities between many of the Indian tribes in the Northwest Territory and the United States, which continued until 1795, when a treaty of peace was made at Greenville by Major General Anthony Wayne, who had been appointed a special commissioner for that purpose on behalf of the United States, with twelve of the Indian tribes, including the Pottawatomies, and which superseded all treaties made with those tribes since the treaty of 1783 between the United States and Great Britain, that came within the purview thereof. (*Indian Treaty Volume*, 1873, p. 184.)

By Article II. The Indians ceded and relinquished forever all their claim to the land lying eastward and southward of a general boundary line, and agreed that those lands or any part of them should never thereafter be made "a cause or pretext on the part of said tribes or any of them, of war or injury to the United States or any of the people thereof." The Indians also ceded sixteen specified parcels of land on the Indian side of the boundary line No. 14 whereof was designated as follows: "One piece of land six miles square at the

mouth of the Chicago River emptying into the southwest end of Lake Michigan, where a fort formerly stood." They also agreed to "allow to the people of the United States a free passage by land and by water, as one or the other shall be convenient, through their country along a chain of posts," which was specifically described, and which passed through Port Chicago on Lake Michigan. They also agreed to "allow to the people of the United States the free use of the harbors and mouths of rivers adjoining Indian lands in sheltering their vessels and boats, and particularly to land their cargoes when necessary for safety." These concessions indicate ownership of the territory including Lake Michigan with a mere right of transit for commerce thereover. The United States, on its part, "in consideration of peace and of the cessions and of the relinquishment of lands made in the preceding articles by the said tribes of Indians, and to manifest the liberality of the United States as the great means of rendering this peace strong and perpetual, "relinquished their claims to all other Indian lands northwest of the River Ohio, eastward of the Mississippi and southward of the Great Lakes and the waters uniting them, *according to the boundary line agreed on by the United States and the King of Great Britain in the treaty of peace made between them in the year* 1783." From this relinquishment certain specified tracts of territory were excepted, none of which, however, affect the property under consideration, all of which were included in the great extent of territory which the United States solemnly relinquished on that occasion.

INDIAN TREATIES SUBSEQUENT TO 1795.

11. The Greenville treaty was followed by a supplemental treaty made at Fort Wayne in 1803, which related, however, solely to land in the neighborhood of St. Vincennes (*Indian Treaty Volume* 1823, p. 370), a treaty made at Fort Industry July 4, 1805, establishing a new boundary line somewhat

west of the Greenville line, the Indians ceding and relinquishing certain land to the United States (*Indian Treaty Volume*, 1826, p. 60): A treaty made at Grausland, near Vincennes, in 1805 (proclaimed April 21, 1806), also relating to certain territory near Vincennes (*Indian Treaty Volume* 1873, p. 371); none of these treaties affected the land under consideration. By a treaty made by Governor Hull at Detroit November 17, 1807, (*ditto*, p. 192), *certain territory was ceded to the United States, a part of which was in Lake Huron; the boundaries of the tract ceded coincided with the boundaries recognized by Great Britain and described in the treaty of* 1783. This treaty is referred to, not as affecting the land under consideration, but as showing that *when the Indians conveyed land included in the lakes the boundary lines were continued through the lakes in the same manner as though the entire tract was upland, leaving nothing to be conveyed by implication or under the doctrine of riparian rights.*

On November 25, 1808, Governor Hull concluded a treaty at Brownstown (*ditto*, p. 194), in which the United States recognized the Indian ownership of the unceded territory by the following preamble: "Whereas (describing certain lands) still belong to the Indian nations so that the United States cannot of right open and maintain convenient road from the settlements in the State of Ohio to the settlements in the territory of Michigan, nor extend those settlements so as to connect them"; this preamble was followed by a cession of territory, which shows that the United States recognized that even for such purposes as making a road, which would ordinarily come within the right of eminent domain, it could not, under the unalterable compact contained in the Northwest Ordinance and the subsequent treaties of Indians, take any Indian land whatever. Treaties were made by General Harrison on September 30, 1809, at Fort Wayne (*ditto*, p. 375) and January 16, 1810, at Vincennes (*ditto*, p. 373), which do not, however, affect the property in question.

12. When the War of 1812 between the United States and Great Britain commenced no cession had been made by the Pottawatomie Indians of any part of what is now the northern district of Illinois, or of the bed of Lake Michigan contiguous thereto, with the exception of the tract six miles square, referred to in the Greenville treaty of 1795 (Section 10, *ante*). The United States and Great Britain were both anxious to secure the co-operation of the Indians of the Northwest Territory. It does not appear that any treaties were made by the Pottawatomies and the United States until 1814, when on July 22, General Harrison made a treaty at Greenville (*Indian Treaty Volume*, 1873, p. 1032), by which they and some of the other tribes "agreed to give their aid to the United States in prosecuting the war against Great Britain and such Indian tribes as still continued hostile, and to make no peace with either without the consent of the United States." The assistance therein stipulated to be given to the United States was to consist of such number of warriors of each tribe as the President might require. As a consideration for the faithful performance of the conditions of this treaty it was agreed that the United States would confirm and establish all the boundary lines between their lands and those of the Wyandotts, Delawares, Shawnees and Miamies as they existed previously to the commencement of the war; a note in the Indian Treaty Volume, published by the United States Government in 1825, says that *the lines referred to coincided with the boundary lines between the United States and Great Britain.* The boundaries of the Pottawatomies were not referred to, but they united in the treaty."

Within a few months after the negotiation of this treaty peace was concluded between the United States and Great Britain by the treaty of Ghent, executed December 24, 1814.

THE TREATY OF GHENT.

13. While the War of 1812 was undoubtedly precipitated by the conduct of Great Britain in searching American vessels on the high seas, and impressing seamen therefrom in the royal navy, one of the most aggravating causes of the friction was the constant stirring up of hostilities between the Indian tribes on the western frontiers; an important element, therefore, in the peace negotiations at Ghent was the adjustment of the Indian boundary lines, and the relations of the Indian nations with Great Britain and the United States. A special article (No. IX) was inserted in the Treaty of Ghent (*December* 24, 1814; *U. S. Treaties and Conventions* 1889, p. 399), *as follows*:

> "The United States engage to put an end, immediately after the ratification of the present treaty, to the hostilities with all the tribes of nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore to the said tribes or nations respectively all of the possessions, rights and priviliges which they may have enjoyed or been entitled to in 1811, previous to such hostilities. Provided always, that such tribes or nations shall agree to desist in all hostilities against the United States of America, their citizens and subjects upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly."

This was followed by a corresponding provision imposing the reciprocal obligations on the part of Great Britain as to the Indians on the northeast side of the boundary line. The subsequent action of the United States in confirming the Indians in their former possessions was therefore not only the result of contract between the United States and the Indians, but it was a fulfillment of an obligation assumed by the United States to Great Britain as one of the elements in the peace treaty concluded at

Ghent; the Indians in this respect received only what the two belligerent nations agreed should be done for them, and it would have been a breach of the obligations assumed by the United States toward Great Britain if it had not fulfilled the terms of the Treaty and reinstated the Indians in their original possessions.

Greenville Treaty Renewed.

14. Pursuant to the terms of the treaty of Ghent, Governor Harrison, on September 8, 1815, entered into a treaty at Springwells, with the Pottawatomies and other Indians, in which it was recited that, although the Pottawatomie Indians had taken part with Great Britain (those in the northern district of Illinois and at the southwestern corner of Lake Michigan had, as a matter of fact, remained loyal to the United States), but had manifested a disposition to be restored to a position of peace and amity with the United States, the United States agreed by Article II of this treaty to restore to the Chippewa, Ottawa and Pottawatomie tribes "all possessions, rights and privileges which they enjoyed or were entitled to, in 1811, *prior to the commencement of the late war with Great Britain,*" said tribes, on their part, agreeing again to place themselves under the protection of the United States and of no other power whatsoever. *The treaty of Greenville, of* 1795, and all subsequent treaties to which these tribes were parties were *renewed, ratified and confirmed* by Article IV of the Springwells treaty "in as full a manner as if the same were inserted in the treaty."

The St. Louis Treaty of 1816, Ceding Site of Chicago.

15. On November 3, 1804, the United States made a treaty with the Sacs and the Foxes (*Indian Treaty Volume*, 1826, p. 230) who claimed the land lying eastward of the Mississippi, extending from that river to the land of the Pottawatomies, by which

those tribes ceded a large tract of territory to the United States. The Pottawatomies claimed that the Sacs and the Foxes had conveyed more land than they were the owners of and that the easterly part of the ceded tract overlapped the west bounds of the Pottawatomies. To adjust this dispute a treaty was made at St. Louis, with the Pottawatomies, Ottawas and Chippewas residing on the Illinois and Milwaukee Rivers and their waters and on the southwestern parts of Lake Michigan (*Indian Treaty Volume*, 1873, p. 150) by which these nations confirmed to the United States on certain conditions a part of the cession of the Sacs and the Foxes above referred to.

Up to this time from the earliest period at which negotiations commenced with the Indians, either with Great Britain or with the United States, *there had been no cession of any kind whatsoever of any territory on the southwestern shore of Lake Michigan, or in that vicinity,* with the exception of plot No. 14 referred to in the original Greenville treaty of 1795 as conveying "one piece of land six miles square at the mouth of the Chicago River emptying into the southwest end of Lake Michigan, where a fort formerly stood." (See Section 10 *ante.*)

There is no record that the United States had ever availed of the permission in the Greenville treaty to survey that plot, although the United States had erected Fort Dearborn on that location.

The St. Louis treaty of 1816 consisted of three articles, the first of which is a relinquishment by the Indians of their rights and title to the land mentioned in the treaty made by the Sacs and the Foxes south of a line drawn due west from the southern extremity of Lake Michigan. This is followed by an absolute cession of a strip of land having a frontage on Lake Michigan from a point ten miles north of the mouth of the Chicago creek to a point ten miles south therefrom, and extending in a southwesterly direction from forty to sixty miles to various points on the Kankakee and Illinois Rivers. The exact description is as follows:

"Article I. The said chiefs and warriors, for themselves and the tribes they represent, agree to relinquish, and hereby do relinquish, to the United States, all their right, claim and title to all the land contained in the beforementioned cession of the Sacs and Foxes, which lies south of a due west line from the southern extremity of Lake Michigan to the Mississippi River. And they moreover cede to the United States all the land contained in the following bounds, to wit: Beginning on the left bank of the Fox River of Illinois, ten miles above the mouth of said Fox River; thence running so as to cross Sandy Creek, ten miles above its mouth; thence, in a direct line, to a point ten miles north of the west end of the portage between Chicago Creek, which empties into Lake Michigan, and the River Depleine, a fork of the Illinois; thence, in a direct line, *to a point on Lake Michigan, ten miles northward of the mouth of Chicago Creek; thence, along the lake, to a point ten miles southward of the mouth of the said Chicago Creek;* thence, in a direct line, to a point on the Kankakee, ten miles above its mouth; thence, with the said Kankakee and the Illinois River, to the mouth of Fox River, and thence to the beginning: *Provided, nevertheless,* that the said tribes shall be permitted to hunt and to fish within the limits of the land hereby relinquished and ceded, so long as it may continue to be the property of the United States." (*Indian Treaties,* 1873, p. 151.)

By the second article of the treaty the United States agreed to pay for the land a stipulated price and also agreed to relinquish to the said tribes "all of the land contained in the aforesaid cession of the Sacs and the Foxes which lies north of a due west line from the southern extremity of Lake Michigan to the Mississippi River," with the exception of certain other tracts which were specified and were not to exceed eight leagues of land in the aggregate.

This is the first cession by metes and bounds of the land upon which the greater part of the City of Chicago has been built. *No cession was made of any land lying east of the shore of Lake Michigan.* The ceded plot was bounded "along the lake" and carried no riparian rights of any water or land below the water of Lake Michigan; in this respect it is different from the description in other treaties made with the Indians where lakes or parts of a lake were conveyed, especial attention being called to the treaty of 1807 (see *Section* 11, *ante*), in which a part of Lake Huron was ceded by boundary lines which passed directly through the lake, nothing being left to implication or constructive conveyance, but the entire tract ceded, land and water alike being included within the specified metes and bounds.

No claim can be based upon this cession for anything east of the line which was subsequently surveyed and measured by the United States, except under the constructive claim that the waters of Lake Michigan passed with the upland as a matter of law; this claim cannot, however, under any circumstances, apply to the land eastward of the tract as described and which was above water, such as islands lying off the shore of Lake Michigan.

Treaties Subsequent to 1816.

16. From 1916 to 1832 a number of treaties were made with the Pottawatomies, Ottawas and Chippewas and some of the tribes thereof, which will be found in the Treaty Volume of the United States of 1873 (see Index, p. 1068), where all of the treaties referred to in this abstract will be found, but none of them relates to the property in question. Many cessions were made of specified plots, but *none of them affected any land in the northern district of Illinois or on any part of Lake Michigan, or the land forming the bed thereof.*

On March 25, 1832, a treaty was made between Lewis Cass and the Pottawatomies and other Indians (*Indian Treaty Volume*, 1873, p. 152) which

contained a cession of land on Lake Michigan near the River St. Joseph, the boundary on the lake "*following the shore of Lake Michigan.*" *This does not, however, affect any part of Lake Michigan in the vicinity of Chicago.* The treaty of September 20, 1829, also ceded a plot on Lake Michigan, which was near the northern boundary line of the State of Indiana, one course of which ran "*thence with the shore of the said lake.*" This was south of the plot ceded in 1816. By a treaty proclaimed January 2, 1830 (*ditto*, p. 161), a cession was made the southern and eastern boundaries whereof were "along the northwestern boundary line of the cession of 1816 *to Lake Michigan; thence northwardly along the western shore of Lake Michigan,*" etc.

17. On January 21, 1833, a treaty was made with the Pottawatamies of the Prairie and Kankakee (*Indian Treaty Volume*, 1873, p. 697) by which a tract of land was ceded to the United Sttaes included within the following boundaries:

> "Beginning at *a point on Lake Michigan* ten miles southward of the mouth of Chicago River; thence, in a direct line, to a point on the Kankakee River ten miles above its mouth; thence, with said river and the Illinois River, to the mouth of Fox River, being the boundary of a cession made by them in 1816; thence, with the southern boundary of the Indiana Territory, to the State line between Illinois and Indiana; thence, north, with said line *to Lake Michigan; thence, with the shore of Lake Michigan*, to the place of beginning."

This plot adjoins the cession of 1816 on the south; it was made fifteen years after Illinois had become a state. Whatever territory was conveyed by this cession of 1833 became a part of the public domain of the United States, as it existed in 1833, and *under no circumstances could any part thereof whether an appurtenant or actually included in its boundaries, have become the property of the State of Illinois.*

INDIAN REMOVALS TO POINTS WEST OF MISSISSIPPI.

18. In 1833 the United States adopted the policy of transferring the Indians from their original seats and territory east of the Mississippi to new reservations west of the Mississippi. This could only be done with the Indians' consent and pursuant to treaty stipulations. The Indians were the rightful owners of the soil and could not be dispossessed therefrom except with their own consent. This was peculiarly the case in regard to the Pottawatamie Indians and the tribes associated with them, as they were protected not only by general principles of ownership, but also by the *unalterable compact* contained in the Ordinance of 1787 and by the special stipulations in the treaty of Ghent, as well as by the other treaties made by the United States relinquishing all ownership to lands not specifically ceded by the Indians, and guaranteeing them in their possession of the territory unceded by them. Inasmuch, however, as the United States was the stronger nation, and as the Indians were unable to resist, treaties were made by some of the tribes; in many cases these treaties were actually made by duress; *in all cases the treaties must be construed liberally for the Indians and strictly against the United States.* The general rule of construction of Indian treaties as laid down by the Supreme Court is that, inasmuch as the Indians are wards of the nation, whatever has been done by the United States to deprive them of their property must be construed as liberally as possible for the Indians.

19. The principal treaty relating to the removal of the Pottawatamie Indians was made at Chicago, September 26, 1833, (*Indian Treaty Volume*, 1873, p. 164), by the "United Nations of the Chippewa, Ottawa and Pottawatamie Indians," who ceded "to the United States all their land *along the western shore of Lake Michigan* between this lake and the lands ceded to the United States and the Winnebago Nation by the treaty of Fort Armstrong, September 15, 1832 (*ditto*, p. 998)." This cession was

supposed to contain about 5,000,000 acres; in consideration therefor the United States agreed to give to the Indians a tract of corresponding size west of the Mississippi, which was afterwards located in the neighborhood of the other great Indian reservations. This cession did not include any cession previously made by the Indians, either under the name of the Pottawatamies or the Pottawatamies of the Prairie and Kankakees. The southmost point on the shore of Lake Michgan, at the southeastern corner of this cession, coincided with the northernmost point of the northeastern boundary of the cession previously made in the treaties of 1816. Some of the bands or tribes of the Pottawatamies did not accede to this cession. They desired to remain in Michigan, and accordingly a supplementary treaty wsa made on the same day, but *no cession of any part of Lake Michigan was contained therein.* (*See Supplementary Articles, ditto* p. 176).

A treaty had been made by the Pottawatamies of the state of Indiana and the territory of Michigan on the 27th day of October, 1832 (*ditto,* p. 701), by Article 1, of which the chiefs and warriors ceded to the United States their title and interest to the lands in the states of Indiana and Illinois and in the territory of Michigan south of the Grand River; but *the records of the Office of Public Lands in the Department of the Interor do not show that under this treaty any lands forming islands east of the meander line of Lake Michigan ever passed into the public domain of the United States, and that it never was considered that this treaty extinguished any title to any such islands is evidenced by the declaration of the Indian Commissioner, hereafter referred to.*

20. The Indian Treaty Volume of the United States shows that a number of treaties were made with the bands of the Pottawatamie Indians during the years 1833 to 1837 (see list in Index p. 1068), either providing for their emigration west, or giving certain plots of land east of the Mississippi; *none of these treaties contains any cessions of any part of the bed or the islands in Lake Michigan;*

after the Pottawatamie Nation, or the principal part thereof numerically considered, had emigrated west of the Mississippi, treaties were made between the Pottawatamies, Chippewas and Ottawas and the United States in 1846 (*ditto*, p. 121), 1862 (*ditto*, p. 690), 1866 (*ditto*, p. 690) and 1868 (*ditto*, p. 691); *in none of these treaties were any cessions made which could affect the title to any property forming the bed of Lake Michigan or any islands therein.*

CONSTRUCTION BY GOVERNMENT OFFICIALS.

The foregoing resume' of Indian treaties shows that *the Indian title has never been extinguished by a specific cession of land east of the meander line laid down, and which will be referred to hereafter,* by which the boundary or demarcation line was established between territory belonging to the United States in which the Indian title was extinguished and which, in conformity with the provisions of the Northwest Ordinance, could be laid out in States, townships, and counties, and the land in which the title was never extinguished, and which the unalterable nature of that article could not be included in any counties or townships. This is the view taken by the United States, and expressed through the only Department of the Government, which lawfully can express it, to wit: The Department of the Interior, which has full charge, not only of the public domain, but also of all relations with Indians, as is evidenced by a letter written by the Commissioner of Indian Affairs, W. A. Jones, June 21, 1899, in which, after reviewing all the treaties made with the Pottawatamies and associated tribes, including all those that are above mentioned, *he declares that the Indian title has not been extinguished in any islands lying in Lake Michigan near Chicago,* unless by the terms of the treaty of 1846. The letter is lengthy. The last paragraphs only are quoted. They express the opinion of the Department as follows:

> "These treaties show you what islands along the western shore of Lake Michigan in the vi-

cinity of Chicago, have been ceded by the Ottawas in conjunction with other tribes, none of which makes any reference to the island referred to by the Indians making the affidavit transmitted, to which they lay claim. *The treaties herein referred to prior to* 1846, *do not convey any cession of any island in Lake Michigan near Chicago,* and if the Ottawa Indian title to such island has been extinguished, it must have been by the treaty of 1846, when the three tribes became consolidated as 'the Pottawatamies Nation.'

"The Ottawas of Michigan by the treaty of July 31, 1855, released the government from all liability for all land guaranted to them by former treaties.

"This communication is perhaps longer than such affidavits usually demand, but as the question of title to a large portion of the 'Chicago front' and small islands along the lake shore occupied by fishermen, is now in litigation, it has been deemed best to give you the substance of all treaties made with the Ottawas bearing upon the land in that vicinity."

This declaration is important, as it has been made recently by the Department with full knowledge that the title to property of vast value, which is now apparently included within the business limits of the City of Chicago, and that the final determination of the questions involved depend upon whether or not the Indian title has been extinguished; notwithstanding, however, the enormous values involved, and the weight which must necessarily be given to any communication of this nature, *the Department of the Interior of the Government of the United States has unqualifiedly placed itself upon record as declaring that the Indian title to islands in Lake Michigan has never been extinguished,* unless it could be so construed under the treaty of 1846. There is only one cession in the treaty of 1846, and that is limited by its terms expressly to lands in the state of Iowa and Missouri, and therefore the only

qualifying clause in the letter of the Indian Commissioner is disposed of, and *the Department must be considered as having expressed the opinion that the Indian title to islands in Lake Michigan has never been extinguished.*

22. The view expressed by the Commissioner of Indian Affairs to the effect that *nothing east of the meander line belongs to the United States,* is not based upon Indian treaties alone, but also upon decisions made by the Department of the Interior relating to public lands. There is a regular court for the determination of land titles held by the Commissioner of Public Lands, and his decisions, while they are not those of a regular court of record under the Constitution, create precedents and establish rules which are followed by the Department and by the courts.

In the *LaFollette* and *Benner* case (*Vol.* 26, *Land Department Decisions,* p. 453), decided April 2, 1898, it was held that the *land in question was not a part of the public domain of the United States and never had been.*

On pages 457-8 Secretary Cornelius N. Bliss, in an opinion prepared by Assistant Attorney General Van Devanter sustaining a decision of the Land Commissioner, said:

> "It is claimed by the applicants that a strip of land lying outside of the eastern line of said north fraction as established by said survey and between that line and the waters of Lake Michigan was not included in said survey and remained unsurveyed public land of the United States. However this may be, the fact is that large additions have been made to the land as it then existed until now there is a tract lying between the survey line of 1821 and the present water line of Lake Michigan, estimated to contain over one hundred and sixty acres. These additions resulted in part from natural accretions and in part from artificial causes. The addition was at first by way of natural accretion which was afterwards accelerated by the

building of piers into the lake and by the dumpage of refuse from the city. About the year 1891 the board of commissioners of Lincoln Park, under the authority of a statute of the state of Illinois, began the construction of a driveway in the lake some distance from the shore line as it then existed and the filling in behind this driveway has progressed rapidly until now the body of land between the original survey line and the present shore line has reached the area above mentioned. Two of the protestants against the allowance of the application of LaFollette and Benner have heretofore sought to acquire title to parts of this tract under the homestead law and by the location of script still assert a right thereto if the land be determined to be public. The other protestants generally claim to be owners of parts of said tract by virtue of the ownership of the land bordering on the original shore line. All applications heretofore made to acquire title to this land under any of the public land laws have been denied upon the ground that the government has not title thereto."

23. Questions of riparian rights and other matters affecting a large part of the property the title to which is under consideration are discussed in this action, and several decisions are referred to in which it has been decided that "the land applied for is east of the original meander line of the lake, as shown by the public surveys of 1821. As such it is not safe to private entry or any other kind of entry under the Public Land laws."

The disclaimer of ownership by the United States to this tract is further emphasized by the fact that the records of the public lands situated in the state of Illinois were kept for many years, until finally, the United States Land Office for public lands in that state was wound up on the theory that "all the lands in that state had been sold."

As to the few plots remaining the state officials were made custodians for the United States, and on

the plats and maps showing the public lands nothing has ever appeared east of fractional township 30, east of the line fixed by John Walls in 1821.

Pottawatamie Title Remains Intact.

24. In the foregoing sections all of the Indian treaties affecting the property have been reviewed, and *they appear to sustain the opinion of the Commissioner of Indian Affairs that the Indian title has not been extinguished.* All the facts relating to the Indian title having been considered and disposed of, and as they show that so far as the extinguishment of the Indian title by cessions of the Indians, which is the only possible way that the title could be extinguished in the northwest territory, *the title still exists, exactly as it did in* 1787, *it remains only for counsel preparing this abstract to express as his opinion that the title of the Indians to all land lying east of the meander line of fractional township* 39, *as fixed by the United States surveys, remains intact,* and that the only question which can arise in that respect is, as between the Pottawatamie Indians, which tribe or band is the rightful successor to the ownership of the lands east of the Mississippi and remaining unsold or unceded. That is a matter which must be settled by and between the Indians themselves, according to the Indian code of laws, which, as between Indian and Indian, and Indian tribe and Indian tribe, are thoroughly settled and established by the customs, laws and traditions of the Indian nations.

Title Not Lost by Adverse Possession.

25. The treaty relations between the United States and the Indians have been considered in this abstract consecutively from the first treatry of 1789 to date, without stopping to take into consideration any other matter affecting the title to the property resulting from the possible effect thereon of claims made by the state of Illinois, the city of Chicago and the purchasers from the United States of lands

lying *west* of the meander line and bordering upon the shore of Lake Michigan. Properly speaking, inasmuch as the Indian title has not been extinguished, none of these questions can affect the title, for by the Articles of Compact in the Northwest Ordinance, which by the terms of the instrument are to remain unalterable forever, *the Indians are as fully protected today in their ownership of land as they were in* 1787; if the proposition asserted by counsel in the preceding section to the effect that the Indian title is still intact, can be maintained, the claims of state, city and private owners necessarily fall to the ground, as no claim can be established against Indians by adverse possession. *As a matter of fact, as well as of law, no adverse possession can be asserted or maintained as to the bulk, if not all, of the property under consideration; some of it has not been filled in at all—other parts, while filled in, are still unoccupied.*

Effect of Legislative Acts.

26. As various parties, however, have asserted claims to the property, basing them upon titles founded upon legislative acts of the state of Illinois, either directly, or through the alleged ownership of the city of Chicago, it will be necessary to consider the history of the property and some of the legislative acts which have been passed, and under which certain persons claimed to have acquired either title to, or a rightful occupancy of some of the property under consideration. We will first consider the historical facts relating to the admission of Illinois as a state and the subsequent acts by the legislature of that state as to what is known as the Chicago lake front.

No Title in State Upon Admission Into the Union.

27. After the cession made by the Indians in 1816 an enabling act was passed by Congress permitting the organization of the state of Illinois pursuant

thereto; a state constitution was adopted, and by resolution of Congress of December 3, 1818, the state of Illinois was admitted into the Union on an equal footing with the original states; the preamble of the resolution declared that the state should be admitted because its constitution and governments were republican "and in conformity to the principles of the Articles of Compact between the original states and the people and states in the territory northwest of the Ohio River, passed on the 13th day of July, 1787."

The admission of the state of Illinois on the condition that its constitution should conform to the compact in the Northwest Ordinance, which provided that the compact should relate to the states carved out of the territory, as well as to the then existing government, and was a further recognition of the protection which was always to be afforded to, and the sanctity which was always to be thrown around, the Indian ownership of lands in that section of the United States.

The enabling act which had been passed on April 18, 1818, pursuant to which the constitution of Illinois had been formed, and the provisions of which had been incorporated into the original constitution of Illinois, provided that the state should never interfere with the primary disposal of the soil by the United States, which was also in compliance with the Ordinance of 1787 (*U. S. Rev. Stat, p.* 15 *of Organic Laws*). When, therefore, the state of Illinois was organized and assumed jurisdiction over that portion of the Northwest Territory within the boundaries described in the enabling statutes and the state constitution, which could properly be incorporated into a state, *it acquired no title whatever to any lands situated within those boundaries to which the Indian title had not been extinguished*, as those lands belonged to the United States and the state by express provisions in its Constitution had waived all claim of ownership thereto, except as to the school lands specified in the enabling act.

DECISION IN ILLINOIS CENTRAL CASE NOT BINDING ON INDIANS.

28. The Supreme Court has decided that the moment the Indian title is extinguished that land passes into the public domain of the United States, and the question of what does or does not pass into the domain must, therefore, necessarily be decided by the proper officers of the United States. The records of the United States show that nothing east of the meander line or any townships bordering on Lake Michigan has ever been included in the public domain; but, on the contrary, as will be shown, the United States has, not by negative action, but by positively affirmative decisions, disclaimed the ownership of anything east of those lines. Only by establishing constructive claims to the effect that land under water next adjacent to land ceded by Indians passes to the State by operation of law and without any transfer by the United States, evidenced in any manner whatever can ever vest the State of Illinois with the ownership of any of the land the title to which is under consideration. The decision of the Supreme Court in the Illinois Central Railroad case (146 U. S. 698) to the effect that the United States holds land under water of the Great Lakes adjacent to the territories in trust to transfer it to the States when they pass from territorial governments into statehood, was made without regard to the Indian title, as no representatives of the Indians were before the Court; the opinion expressed the legal theory which possibly can be applied when the Indian title has been extinguished, but cannot apply, so far as the Northwest Territory is concerned, until after such extinguishment, for the unalterable compact of the Ordinance of 1787 would expressly exempt Indian property therefrom; in view of the Declaration of the Department of the Interior therefore, so far as any land is concerned which formed an island in Lake Michigan the decision has absolutely no application whatsoever, either as to the facts or as to the law.

TITLE TO ISLAND.

29. It has already been stated that after the original cession in the Greenville treaty of a plot six miles square at the mouth of the Chicago River, no survey was made by the United States although that treaty provided for conditions under which a survey could be made. The first survey of the cession made at St. Louis in 1816, conveying twenty miles frontage on Lake Michigan, was in 1819, after Illinois had become a State, when a surveyor by the name of John Sullivan laid the outside lines of the entire cession. In 1821 a regular contract in the usual form was made by the United States with the Rector brothers to survey and plat all of the lands belonging to public domain in Illinois, Missouri and Arkansas. They laid out a new meander line west of fractional township 39, range 14, on the shore of the lake, which was somewhat east (in some places 200 feet) of the line laid out by Sullivan in 1819. This meander was laid out by John Walls, a sub-contractor under the Rectors, in 1821; it has been adopted by the Department of the Interior of the United States as the meander line of Lake Michigan from a point ten miles north to a point ten miles south of the Chicago River, and ever since the closing of that line the Department has disclaimed the ownership of the United States to any land, whether upland on the shore of the lake, or land under the water of the lake, or islands in the lake. *All assumption of ownership, either by the state of Illinois, the city of Chicago or private owners has therefore been unwarranted, without any basis of law or title and in direct defiance of Indian ownership.* The Rector survey, as made by John Wall, is the first authentic survey showing anything beyond the outside lines made by Sullivan; on the official maps made by the War Department and based on those surveys a long island just outside the mouth of the Chicago River is plainly indicated, and a large part of the land the title to

which is now under consideration was included within the lines of that island; under no circumstances can any of that land be classed as land under water or forming a part of the bed of Lake Michigan, either at the present time, or at any time at or prior to or subsequent to the cession of 1816.

ENCROACHMENTS UPON INDIANS' TERRITORY.

30. While the documentary history of the land in question can be traced by reference to the instruments relating to it in the various departments of the Government and by acts of Congress and the State legislature and decisions of the courts, the actual history of the filling in of the property is one which can, to some extent be traced by the various maps of surveys which have been made from time to time by the Department of the Interior and by the War Department. These show that for the last eighty years encroachments have been steadily made upon land east of the meander line of 1821, filling up the bed of Lake Michigan and apparently carrying the line of the lake out to, and in some places beyond, the island referred to; at some points the new, or apparent, shore line is two thousand feet beyond the original east line of the island so that *encroachments have been made upon the Indians' territory three thousand feet and over between the Wall line of* 1821 *and the present line of filled in land.*

This has not been the result of natural accretion, which might possibly affect the original shore line, but has been entirely due to the deliberate acts of man, and by artificial means; the original or meander line, as established in 1821, has never been affected by natural accretion, and therefore the shore line, for purposes of legal adjudication of titles remains exactly as it was when ceded by the Indians in 1816, and as shown by the first official surveys of the United States made by John Sullivan in 1819, or as they were located and accepted by the United States when John Wall laid out the

meander line in 1821, which has ever since been recognized by the Government as the boundary of its purchase.

No Title Acquired as Against Indians.

31. It would be impracticable to recite, and review, the numerous acts which have been passed by the legislature of the State of Illinois affecting what is known as the Chicago lake front. Under some of those acts individuals and corporations claim that they have expended money and obtained vested rights. *All such expenditures, however, have been made with full knowledge of the existence of the Indian title, in regard to which there has never been any doubt or any dispute.* There has been no concealment of the record. The treaties are a matter of record, and *it is apparent to any one examining the record that the title to everything east of the meander line is necessarily either in the Indian tribes or in the United States.*

The principal acts upon which the claims rest are the Chicago Lake Front Act of 1869, which will be found in full in the report of the Illinois Central R. R. Co. case (146 U. S. 387). There are grave doubts as to the constitutionality of this act. The Attorney General of the State of Illinois contended before the Supreme Court that the act was unconstitutional. The Supreme Court did not so decide, but did decide that the sections involved in the controversy had been repealed and that no vested rights had been acquired thereunder by the Illinois Central R. R. Co. which the State could not terminate by repealing the act. This did not sustain the constitutionality of the act, but obviated the necessity of passing upon that point. Titles to large tracts of filled-in land on the Chicago lake front depend entirely upon the right of the Park Commissioners to sell to the present claimants for a nominal sum, pursuant to the provisions of the act of 1869. The plan adopted by the Park Commissioners and permitted by that act is as repugnant to the theory

of the Supreme Court as to the State ownership, if any, of the land under the water of Chicago harbor, as was the occupation thereof by the Illinois Central R. R. Co.; even if the Indian title has been extinguished, there are grave doubts as to whether the present claimants holding under the act of 1869 have acquired any rights whatsoever. *All of the acts of the legislature of the state of Illinois, as well as acts of Congress, in regard to the Chicago lake front have been in disregard of the Indian title;* all of the decisions of the courts of the United States, of the State of Illinois and of the Land Department have been made *ex-parte*, so far as the Indians are concerned, and while they have attempted to adjust conflicting claims of ownership as to the United States, States, corporations and individuals, those decisions are necessarily without any binding effect upon the Indians and those holding under them when they finally assert their claims.

It is unnecessary to go into the question of ownership of the city of Chicago, for that city holds under the State of Illinois, and its title must necessarily be limited by the same limitations which affect the title of the State. *The relations between the State and city are to some extent fixed by statute, but as against the Indians neither has any claim.*

Title Not Affected by Canal Grant.

32. In 1827 the United States, in order to encourage the building of a canal from Lake Michigan to the Illinois River, thus connecting Chicago with the Mississippi granted certain sections of land to the Canal Commissioners of the State. This act was necessary, as the State of Illinois had no land, and therefore had to apply to the United States for some of the land it had acquired from the Indians.

Under this act, however, the United States could have granted only sections of land the Indian title to which had been extinguished; the sections allotted were to be designated by the President and

none of the sections so designated contained any of the land the title to which is now under consideration; the canal subsidy act, therefore, cannot affect the title of any property east of the meander line as fixed by John Wall in 1821. What are known as the Swamp Lands Act of Congress, by which certain submerged lands were transferred to the States, do not apply to this case, as none of this land was *swamp* land, and the United States could not cede to the States any land the Indian title to which had not been extinguished. Furthermore, a large part of the land in question was not submerged land, but *as an island in Lake Michigan was land above water.*

LAND BEYOND SHORE LINE AS SURVEYED NOT CEDED BY INDIANS.

33. There is only one basis upon which the State of Illinois or any person holding under it can claim any of the lands east of the Wall meander line of 1821, and that is on the theory that when the Indians ceded, in 1816, a tract of land bounded by the shore of Lake Michigan that *ipso facto*, and as an appurtenant thereto, the land under water adjacent to the upland added for some distance—(exact extent unknown) passed by some process of law to the United States, and that when the United States subsequently admitted Illinois as one of the States of the Union on the same footing as the original thirteen states, that this ownership of, and sovereignty over, the land under water passed to the State in trust, as held in the Illinois Central case (146 U. S. 398), which has already been referred to.

In that respect it must be noted, first, that as the Indians were not before the Court, no claim of Indian ownership was considered, and, secondly, that this theory can only relate to land under water, and that if anything east of the Wall meander line of 1821, was above water that land did not, even under the theory of the Illinois Central R. R. case, pass to the State, but remained as United States

domain, exactly the same as the other land amounting to millions of acres the Indian title to which had been extinguished, remained in the United States. The decision of the Supreme Court in the Illinois Central R. R. Co. case does not seem to have considered the effect of the unalterable compact of the Ordinance of 1787, upon the question at all; in fact, the single point involved in the Illinois Central R. R. Co. case was whether the State of Illinois had a right to repeal the act of 1869, so as to deprive the Illinois Central R. R. Co. of the right of occupancy of those lands which had been filled in and occupied by it under the terms and conditions of the act of 1869. That is to say, the only point decided by the Supreme Court was that the lake front act of 1869 was not such a contract between the State and the Railroad Company that the State could not by a subsequent statute repeal it. To come back however, to the broad question of law, the State of Illinois acquired nothing east of the Wall line, except constructively on the theory that the land under water passed as an appurtenant with the cession of 1816. To refute this, as a proposition of law, would involve the preparation of a brief upon this single point. It must be sufficient in this abstract to state that the opinion of counsel preparing it, after examining the question, is that *the Indian grants are limited by the metes and bounds described in the cession, and that where land under water is conveyed it must be included in the boundaries, as was done in the cession of that part of Lake Huron which lies between the shore and the boundary between this country and Great Britain.* (*See Section* 11 *ante.*)

As to the riparian rights claimed by the owners of upland, in the absence of any Indian cession, they would of course not exist. The only rights which do, or can, claim are under and by virtue of the statutes of the State of Illinois, and the Supreme Court has decided that where the United States owned the land under water prior to the admission of Illinois as a State, those lands only

passed to the States "in trust for the people of the State."

The disposition of these lands under the State law of 1869 hardly seems to be in conformity with the duties of a trustee. Those rights, however, could not, under any circumstances, attach to that part of the land which, in 1821, formed an island, or which has been since then formed by accretions to the eastward side of that island, for that land would come under the rules of upland and real estate, and could not in any way be considered as subject to riparian rights, even if the general rule of riparian rights was sustained.

34. If the Pottawatamie Indians, or their successors, or their grantees should resume possession of the land in question, they could only be removed therefrom by the military forces of the United States, acting under military orders of the Executive, or by process of law through the intervention of the courts of the United States; they would be entitled to any adjudication made to the full benefit of all the provisions of the Ordinance of 1787, which, according to its own terms, is in as full force today as it was in 1787, for by its terms it was to remain unalterable forever.

In any action commenced in the courts the title of the parties instituting it would have to be proved beyond question before a judgment of ejectment could be entered. Unless an action was commenced by and on behalf of the United States, it would have to be instituted either by the State of Illinois or by some person claiming under it; and the action would fail unless a complete title was shown to have vested in the State and to have emanated properly from the State into the person maintaining the action.

If such an action were maintained by any corporation or individual holding title under the act of 1869, the constitutionality of that act would first have to be established before the title could be sustained.

(Signed) CHARLES HENRY BUTLER,
March 31, 1901. 71 Broadway.

APPENDIX B.

The Treaty of Greenville.

"TREATY WITH THE WYANDOT, ETC., 1795.

A treaty of peace between the United States of America and the Tribes of Indians, called the Wyandots, Delawares, Shawanoes, Ottawas, Chippewas, Putawatimes, Miamis, Eel-river, Weea's, Kickapoos, Piankashaws, and Kaskaskias.

To put an end to a destructive war, to settle all controversies, and to restore harmony and a friendly intercourse between the said United States, and Indian tribes; Anthony Wayne, major-general, commanding the army of the United States, and sole commissioner for the good purposes above-mentioned, and the said tribes of Indians, by their Sachems, chiefs and warriors, met together at Greenville, the headquarters of the said army, have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the said Indian tribes.

ARTICLE I.

Henceforth all hostilities shall cease; peace is hereby established, and shall be perpetual; and a friendly intercourse shall take place, between the said United States and Indian tribes.

ARTICLE II.

All prisoners shall on both sides be restored. The Indians, prisoners to the United States, shall be immediately set at liberty. The people of the United States, still remaining prisoners among the Indians, shall be delivered up in ninety days from the date hereof, to the general or commanding officer at Greenville, Fort Wayne or Fort Defiance;

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and ten chiefs of the said tribes shall remain at Greenville as hostages, until the delivery of the prisoners shall be effected.

ARTICLE III.

The general boundary line between the lands of the United States, and the lands of the said Indian tribes, shall begin at the mouth of Cayahoga river, and run thence up the same to the portage between that and the Tuscarawas branch of the Muskingum; thence down that branch to the crossing place above Fort Lawrence; thence westerly to a fork of that branch of the great Miami river running into the Ohio, at or near which work stood Loromie's store, and where commences the portage between the Miami of the Ohio, and St. Mary's river, which is a branch of the Miami, which runs into Lake Erie; thence a westerly course to Fort Recovery, which stands on a branch of the Wabash; then southwesterly in a direct line to the Ohio, so as to intersect that river opposite the mouth of Kentucky or Cuttawa river. And in consideration of the peace now established; of the goods formerly received from the United States; of those now to be delivered and of the yearly delivery of goods, now stipulated to be made hereafter, and to indemnify the United States for the injuries and expenses they have sustained during the war; the said Indian tribes do hereby cede and relinquish forever, all their claims to the lands lying eastwardly and southwardly of the general boundary line now described; and these lands, on the part of them, shall never hereafter be made a cause or pretense, on the part of the said tribes or any of them, of war or injury to the United States, or any of the people thereof.

And for the same considerations, and as an evidence of the returning friendship of the said Indian tribes, of their confidence in the United States, and desire to provide for their accommodations, and for that convenient intercourse which will be beneficial to both parties, the said Indian tribes do also

cede to the United States the following pieces of land, to wit: (1) One piece of land six miles square at or near Loromie's store before mentioned. (2) One piece two miles square at the head of the navigable water or landing on the St. Mary's river, near Girty's town. (3) One piece six miles square at the head of the navigable water of the Au-Glaize river. (4) One piece six miles square at the confluence of the Au-Glaize and Miami rivers, where Fort Defiance now stands. (5) One piece six miles square at or near the confluence of the rivers St. Mary's and St. Joseph's, where Fort Wayne now stands, or near it. (6) One piece two miles square on the Wabash river at the end of the portage from the Miami of the lake, and about eight miles westward from Fort Wayne. (7) One piece six miles square at the Ouatanon or old Weea towns on the Wabash river. (8) One piece twelve miles square at the British fort on the Miami of the lake at the foot of the rapids. (9) One piece six miles square at the mouth of the said river where it empties into the Lake. (10) One piece six miles square upon Sandusky lake, where a fort formerly stood. (11) One piece two miles square at the lower rapids of Sandusky river. (12) The post of Detroit and all the land to the north, the west and the south of it, of which the Indian title has been extinguished by gifts or grants to the French or English governments; and so much more land to be annexed to the district of Detroit as shall be comprehended between the river Rosine on the south, lake St. Clair on the north, and a line, the general course whereof shall be six miles distant from the west end of lake Erie, and Detroit river. (13) The post of Michillimackimac, and all the land on the island, on which that post stands, and the main land adjacent, of which the Indian title has been extinguished by gifts or grants to the French or English governments; and a piece of land on the main to the north of the island, to measure six miles on Lake Huron, or the strait between lakes Huron and Michigan, and to extend three miles back from the water

of the lake or strait, and also the island DeBois Blanc, being an extra and voluntary gift of the Chippewa nation. (14) One piece of land six miles square at the mouth of Chikago river, emptying into the southwest end of Lake Michigan, where a fort formerly stood. (15) One piece twelve miles square at or near the mouth of the Illinois river, emptying into the Mississippi. (16) One piece six miles square at the old Piorias fort and village near the south end of the Illinois lake on said Illinois river: And whenever the United States shall think proper to survey and mark the boundaries of the lands, hereby ceded to them, they shall give timely notice thereof to the said tribes of Indians, that they may appoint some of their wise chiefs to attend and see that the lines are run according to the terms of this treaty.

And the said Indian tribes will allow to the people of the United States a free passage by land and by water, as one and the other shall be found convenient, through their country, along the chain of posts herein before mentioned; that is to say, from the commencement of the portage aforesaid at or near Loromie's store, thence along said portage to the St. Mary's and down the same to Fort Wayne, and then down the Miami to Lake Erie; again from the commencement of the portage at or near Loromie's store along the portage from thence to the river Au-Glaize, and down the same to its junction with the Miami at Fort Defiance; again from the commencement of the portage aforesaid, to Sandusky river, and down the same to Sandusky hat and lake Erie, and from Sandusky to the post which shall be taken at or near the foot of the rapids of the Miami of the lake; and from thence to Detroit. Again from the mouth of Chicago, to the commencement of the portage, between that river and the Illinoise, and down the Illinois river to the Mississippi, also from Fort Wayne along the portage aforesaid which leads to the Wabash, and then down the Wabash to the Ohio. And the said Indian tribes will also allow to the people of the United States the

free use of the harbors and mouths of rivers along the lakes adjoining the Indian lands, for sheltering vessels and boats, and liberty to land their cargoes where necessary for their safety.

ARTICLE IV.

In consideration of the peace now established and of the cessions and relinquishments of lands made in the preceding article by the said tribes of Indians, and to manifest the liberality of the United States, as the great means of rendering this peace strong and perpetual; the United States relinquish their claims to all other Indian lands northward of the river Ohio, eastward of the Mississippi, and westward and southward of the Great Lakes and the waters uniting them, according to the boundary line agreed on by the United States and the king of Great Britain, in the treaty of peace made between them in the year 1783. But from this relinquishment by the United States, the tracts of land, are explicitly excepted. 1st. The tract of one hundred and fifty thousand acres near the rapids of the river Ohio, which has been assigned to General Clark, for the use of himself and his warriors. 2d. The post of St. Vincennes on the river Wabash, and the lands adjacent, of which the Indian title has been extinguished. 3d. The lands at all other places in possession of the French people and other white settlers among them, of which the Indian title has been extinguished as mentioned in the 3d article; and 4th. The post of fort Massac towards the mouth of the Ohio. To which several parcels of land so excepted, the said tribes relinquish all the title and claim which they or any of them may have.

And for the same considerations and with the same views as above mentioned, the United States now deliver to the said Indian tribes a quantity of goods to the value of twenty thousand dollars, the receipt whereof they do hereby acknowledge; and henceforward every year forever the United States

will deliver at some convenient place northward of the river Ohio, like useful goods, suited to the circumstances of the Indians, of the value of nine thousand five hundred dollars; reckoning that value at the first cost of the goods in the city or place in the United States, where they shall be procured. The tribes to which those goods are to be annually delivered, and the proportions in which they are to be delivered, are the following:

1st. To the Wyandots, the amount of one thousand dollars. 2d. To the Delawares, the amount of one thousand dollars. 3d. To the Shawanese, the amount of one thousand dollars. 4th. To the Liamis, the amount of one thousand dollars. 5th. To the Ottawas, the amount of one thousand dollars. 6th. To the Chippewas, the amount of one thousand dollars. 7th. To the Putawatimes, the amount of one thousand dollars. 8th. And to the Kickapoo, Weea, Eel-river, Piankashaw and Kaskaskias tribes, the amount of five hundred dollars each.

Provided, That if either of the said tribes shall hereafter at an annual delivery of their share of the goods aforesaid, desire that a part of their annuity should be furnished in domestic animals, implements of husbandry, and other utensils convenient for them, and in compensation to useful artificers who may reside with or near them, and be employed for their benefit, the same shall at the subsequent annual deliveries be furnished accordingly.

ARTICLE V.

To prevent any misunderstanding about the Indian lands relinquished by the United States in the fourth article, it is now explicitly declared, that the meaning of that relinquishment is this: The Indian tribes who have a right to those lands, are quietly to enjoy them, hunting, planting, and dwelling thereon so long as they please, without any molestation from the United States; but when those

tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and until such sale, the United States will protect all the said Indian tribes in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude upon the same. And the said Indian tribes again acknowledge themselves to be under the protection of the said United States and no other power whatever.

ARTICLE VI.

If any citizen of the United States, or any other white person or persons, shall presume to settle upon the lands now relinquished by the United States, such citizen or other person shall be out of the protection of the United States; and the Indian tribe, on whose land the settlement shall be made, may drive off the settler, or punish him in such manner as they shall think fit; and because such settlements made without the consent of the United States, will be injurious to them as well as to the Indians, the United States shall be at liberty to break them up, and remove and punish the settlers as they shall think proper, and so effect that protection of the Indian lands herein before stipulated.

ARTICLE VII.

The said tribes of Indians, parties to this treaty, shall be at liberty to hunt within the territory and lands which they have now ceded to the United States, without hindrance or molestation, so long as they demean themselves peaceably, and offer no injury to the people of the United States.

ARTICLE VIII.

Trade shall be opened with the said Indian tribes; and they do hereby respectively engage to afford protection to such persons, with their property, as

shall be duly licensed to reside among them for the purpose of trade, and to their agents and servants; but no person shall be permitted to reside at any of their towns or hunting camps as a trader, who is not furnished with a license for that purpose, under the hand and seal of the superintendent of the department northwest of the Ohio, or such other person as the President of the United States shall Authorize to grant such licenses; to the end, that the said Indians may not be imposed on in their trade. And if any licensed trader shall abuse his privilege by unfair dealing, upon complaint and proof thereof, his license shall be taken from him, and he shall be further punished according to the laws of the United States. And if any person shall intrude himself as a trader, without such license, the said Indians shall take and bring him before the superintendent or his deputy, to be dealt with according to law. And to prevent impositions by forged licenses, the said Indians shall at least once a year give information to the superintendent or his deputies, of the names of the traders residing among them.

ARTICLE IX.

Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United States, and the said Indian tribes agree, that for injuries done by individuals on either side, no private revenge or retaliation shall take place; but instead thereof, complaint shall be made by the party injured, to the other; by the said Indian tribes, or any of them, to the President of the United States, or the superintendent by him appointed; and by the superintendent or other person appointed by the President, to the principal chiefs of the said Indian tribes, or of the tribe to which the offender belongs; and such prudent measures shall then be pursued as shall be necessary to preserve the said peace and friendship unbroken, until the Legislature (or Great Council) of the

United States, shall make other equitable provision in the case, to the satisfaction of both parties. Should any Indian tribes meditate a war against the United States or either of them, and the same shall come to the knowledge of the before-mentioned tribes, or either of them, they do hereby engage to give immediate notice thereof to the general or officer commanding the troops of the United States, at the nearest post. And should any tribe, with hostile intentions against the United States, or either of them, attempt to pass through their country, they will endeavor to prevent the same, and in like manner give information of such attempt, to the general or officer commanding, as soon as possible, that all causes and suspicion may be avoided between them and the United States. In like manner the United States shall give notice to the said Indian tribes of any harm that may be meditated against them, or either of them, that shall come to their knowledge; and do all in their power to hinder and prevent the same, that the friendship between them may be uninterrupted.

ARTICLE X.

All other treaties heretofore made between the United States and the said Indian tribes, or any of them, since the treaty of 1783, between the United States and Great Britain, that come within the purview of this treaty, shall henceforth cease and become void.

In testimony whereof, the said Anthony Wayne, and the sachems and war chiefs of the before-mentioned nations and tribes of Indians, have hereunto set their hands and affixed their seals.

Done at Greenville, in the territory of the United States northwest of the river Ohio, on the third day of August, one thousand seven hundred and ninety-five.

* * * * * *"

APPENDIX C.

Illinois Statutes in Question.

The ordinance of the City of Chicago providing for the building of a harbor is set up in full as an exhibit and attached to the original bill of complaint and appears on pages 12 to 19 of the Transcript of the Record. The several statutes named in the bill purport to dispose of or authorize the disposition of certain of the submerged or formerly submerged lands of Lake Michigan and so far as pertaining to this case are as follows:

LINCOLN PARK—TITLE TO SUBMERGED LANDS.

"An Act to grant the title of certain submerged land in Lake Michigan to the Commissioners of Lincoln Park and enable them to exercise police power over the water adjacent thereto. Approved June 4, 1889. In force July 1, 1889. L. 1889, p. 214; Legal News Ed., p. 133.

Title to Submerged Land, Etc. Sec. 1. BE IT ENACTED BY THE PEOPLE OF THE STATE OF ILLINOIS, REPRESENTED IN THE GENERAL ASSEMBLY, That all right, title and interest of the State in and to the bed of Lake Michigan on which the driveway connected with Lincoln Park is now constructed, or on which any extension thereof may hereafter be constructed, and a strip of such submerged land between the east line thereof, and a line fifty feet east of the breakwater, protecting said driveway and any extension of the same be and is hereby granted to the Commissioners of Lincoln Park and their successors in office, to be held for the use and benefit of the public as a part of said park and for no other purpose whatever.

Police Control Over. Sec. 2. That said commissioners may have and exercise police control over the waters of Lake Michigan along the east side of said driveway and any extension thereof, for a dis-

tance of two hundred and fifty feet in same way as over the grounds of the park, and sand may be taken therefrom by permission of said commissioners."

EXTENSION OF BOULEVARD OR DRIVEWAY.

"An Act to enable Park Commissioners having control of any Boulevard or driveway bordering upon any public waters in this State, to extent the same. Approved June 4, 1889. In force July 1, 1889, p. 212; Legal News Ed. p. 134.

Extension of Boulevard or Driveway not to interfere with navigation. Sec. 1. BE IT ENACTED BY THE PEOPLE OF THE STATE OF ILLINOIS, REPRESENTED IN GENERAL ASSEMBLY, That every board of park commissioners, existing under the laws of this State, that now has, or may hereafter have, control over any boulevard or driveway connecting with any public park under the control of such board, and bordering upon any public waters in this State, shall have power, subject to the limitations in this act contained, to extend such boulevard or driveway, of the width of not more than two hundred feet over and upon the bed of such public waters: Provided, however, that no such boulevard or driveway shall be extended under the provisions of this act in such a manner as to interfere with the navigation of such public waters for the purposes of commerce; and that the lands adjacent to such public waters and connected with the termini of such boulevard or driveway as extended under the provisions of this act, shall lie within the District or territory, the property of which shall be taxable for the maintenance of the parks under the control of such board.

Extension—Plans—Consent of Corporate authorities—Riparian Rights. Sec. 2. Whenever any such board of park commissioners shall determine to extend any such boulevard or driveway under this act, said board shall prepare a plan of such proposed extension, and make an estimate of the cost thereof, and shall obtain the consent in

writing of the owners of at least two-thirds of the frontage of all of the lands not appropriated to or held for public use abutting on such public waters, in front of which it is proposed to extent such boulevard or driveway, for the making of such extension, and shall also obtain the consent of the supervisor and assessor corporate authorities of the town or towns in which the lands abutting on such public waters in front of such proposed extension may lie, to the making of such extension. The riparian or other rights of the owners of lands on the shore adjoining the waters in which it is proposed to construct such extension, the said board of park commissioners may acquire by contract with or deeds from any such owner; and in case of inability to agree with any such owner, proceedings may be had to condemn such rights according to the provisions of article nine of an act entitled "An act to provide for the incorporation of cities and villages," approved April 10, 1872, and the amendments thereof.

Powers of Board—Submerged Lands. Sec. 3. Upon complying with section two of this act, said board shall have power to contract in writing with any person or persons for the construction of such extension of such boulevard or driveway, according to such plan, and under the supervision of said boards, and in all cases where any boulevard or driveway is extended under the provisions hereof the submerged lands lying between the shore of such public waters and the inner line of the extension of such boulevard or driveway shall be appropriated by the board of park commissioners to the purpose of defraying the cost of such extension, and to that end such board of park commissioners are authorized to sell and convey such submerged lands in fee simple by deeds duly executed on its behalf by its President and under its corporate seal, and every deed executed in pursuance hereof shall vest a good title in the grantee to the premises intended to be conveyed thereby.

Completion of Extension—Title in Submerged Lands. Sec. 4. Upon the completion of any such extension of such boulevard or driveway the title thereto, and to the bed thereof, shall be vested in such board of park commissioners for the purpose of a boulevard or driveway, and shall become a part of the public park or parks under the control of such board, and shall thenceforth be maintained and controlled by such board in the manner provided by law for the government and maintenance of other boulevards and driveways under its control.

When Street Extends to Shore. Sec. 5. In case any public streets shall extend to the shore line of said public waters in front of which extension of such boulevard or driveway shall be constructed under this act, and such streets, if extended, would cross such extension, such streets (unless the municipality in control thereof shall otherwise direct) shall extend to the inside line of such extension of said boulevard or driveway. Nothing in this act shall be construed to repeal section twenty of an act entitled "An Act in regard to the completion of public parks and the management thereof," approved June 16, 1871, and amendments thereto heretofore made, or which may be hereafter made, unless expressly so declared.

N. B. There is nothing in the Act of June 16, 1871, last referred to, which appears to have any pertinency to this case.

For the Enlargement of Lincoln Park.

"An Act for the enlargement of Lincoln Park and to defray the expense thereof, Approved June 17, 1893. In force July 1, 1893. L. 1893, p. 159; Legal News Ed., p. 108.

Whereas, the health and the best interests of the public require that Lincoln Park in Chicago, be enlarged, therefore, 99. Enlargement of Parks—Commissioners to fix boundaries.) Sec. 1. Be it enacted, by the People of the State of Illinois, rep-

resented in the General Assembly, That in all cases where lands within specified boundaries have been declared to be a public park, for the enlargement of a public park, and provisions made for requiring the title to the land embraced within said boundary by purchase or condemnation, it shall be lawful to enlarge the boundaries thereof and to acquire to lands and riparian rights by purchase or condemnation embraced in said enlarged limits.

The commissioners of any such park may determine and fix the boundaries of such addition or enlargement, cause a survey and plat thereof to be made and adopt the same by resolution of the board of park commissioners having the management of such park. After the boundaries thereof shall be so established the said board of commissioners of such park may purchase any land and riparian rights, if any, at fair and reasonable prices, to be determined by agreement, with the owners thereof; and, in case of an inability to agree with such owners or any of them, as to the price and prices, that shall be lawful to condemn the same, according to the provisions of article nine of chapter twenty-four of the Revised Statutes and any amendments thereto; for the purpose of raising the money to pay for such property, whether fixed by agreement with the owners or by the judgment of the court, it shall be lawful to make an assessment upon the property benefited by the proposed improvement, in the manner provided in article nine of chapter twenty-four of the Revised Statutes and amendments thereto.

Lawful to Construct Breakwater.) Sec. 2. It shall be lawful for any board of commissioners of such park to establish, construct and maintain breakwater, as against waste from any lake or any public water, which in their judgment may be necessary to protect the land and property of said park and also to construct and maintain any driveway or boulevard in connection with such park, and when necessary to acquire land or riparian rights for that purpose, and to proceed in the manner

hereinbefore specified for the acquirement of land and riparian rights to be embraced within the enlarged limits of such park.

Consent of Supervisor and Assessor Required.) Sec. 3. Before it shall be lawful for any board of commissioners of such park to proceed, hereinbefore specified to enlarge a park or to make or to cause to be made, an assessment for the purpose of making compensation for the lands and riparian rights, the consent of the supervisor and assessor of the town in which such park or any part thereof may be located, and in which it is proposed to make said improvement shall be procured by them, and for that purpose the supervisor and assessor are hereby declared to be corporate authorities of said town."

Commissioners Having Control of Park Bordering Upon Waters to Enlarge the Same—Granting Submerged Lands for the Purpose of Such Enlargements.

"An Act to enable park commissioners having control of any park bordering upon public waters in this State to enlarge the same from time to time and granting submerged lands for the purpose of such enlargements and to defray the cost thereof. (Approved June 15, 1895. In force July 1, 1895. L. 1895, p. 282; Legal News Ed., p. 193.

Power over Submerged Lands—Plans—Title to such Lands.) Sec. 1. Be it Enacted by the People of the State of Illinois, represented in the General Assembly, That in all cases where lands within specified boundaries bordering on public waters in this State have been declared to be a public park, and where the commissioners of such park have been named in the act establishing the same, and their successors have since been appointed by the Governor of this State, the said commissioners of any such park shall have power from time to time in their discretion to enlarge the same by reclaiming submerged lands under said public waters in the following manner: Said board of commission-

ers upon deciding to make any such enlargement of said park shall prepare and adopt a plan of such enlargement and in the same shall locate a boulevard or driveway over and upon the bed of such public waters. The termini of such boulevard or driveway shall be within the district or territory the property of which shall be taxable for the maintenance of the park under the control of said board, and one at least of such termini shall be at or upon some driveway or boulevard already established and under the control of said board of commissioners. The said proposed boulevard or driveway shall be so located as not to interfere with the navigation of such public waters for the purposes of commerce. Said plan shall provide for such breakwater, seawall or other protection upon the water line of said boulevard or driveway as shall be necessary to save the same from destruction or waste by water.

Said plan shall also locate upon the submerged lands between the shore line of such public waters as it exists at the time said plan is prepared and adopted and the inner line of the proposed boulevard and driveway, such portions of the submerged lands to hold, use and improve for the purposes of a public park under its control and management. Said board of commissioners after the preparation and adoption of said plan shall make an estimate of the cost of the construction of said boulevard and driveway and the filling in and reclamation of all the submerged lands lying between the inner line of said boulevard and the shore line of such public waters. Thereupon the title of such submerged lands over which the said boulevard or driveway is located and of the said submerged lands between said boulevard as located and the shore line shall become and be vested in and is hereby granted to the said board of commissioners, in fee simple for park purposes, as hereafter in this act set forth.

Riparian Rights—Condemnation—Bill by owners to define boundary line.) Sec. 2. The riparian rights of the owners of lands along the shore ad-

joining such submerged land, and such land along the said shore as to the said board shall seem necessary and desirable, the said board of commissioners may acquire by contract with or deeds from any such owner, and in case of inability to agree with any such owner proceedings may be had to condemn such rights and such lands according to the provisions of Article 9 of an act entitled, 'An Act to provide for the incorporation of cities and villages,' (approved April 10, 1872), and the amendments thereof.

In all cases in which said board of park commissioners shall have acquired or contracted to acquire the riparian rights of the owners of any land along the shore adjoining such submerged land, the owners of such shore land may file a petition or bill in chancery on the chancery side of the circuit court of the county in which said lands are situated, to which bill or petition the said board of park commissioners shall be made defendants, praying that the boundary line between the lands of the petitioners or complainants in said suit and the lands acquired by the said board of park commissioners under this act may be established and defined by the decree of said circuit court. The defendant shall be served with process in the suit so instituted in the same manner as in suits in chancery, and the proceedings in said cause may be conducted in the same manner as in other suits in chancery, and the court shall have power by its final decree in said cause to establish the dividing or boundary line between the lands of the petitioners or complainants and the lands of the said board of park commissioners adjacent thereto, and the line so established by the decree or judgment of the said circuit court shall be the permanent boundary line of said shore lands which shall not be affected or changed thereafter, either by accretions or erosions, and the owners of said shore lands shall have the right to improve, protect, sell and convey the shore lands up to the boundary line so established, free from any adverse claim in any way arising out

of any question as to where the shore line was at any time in the past or as to the title to existing accretions, if any, to said shore land. And in the event that any owner or party interested in any of the said shore lands shall be unable to contract with said park commissioners by reason of a minority or other disability, a petition or bill in chancery may be filed by the guardian or next friend of such owner on the chancery side of the circuit court in the county in which such lands are situated, to which the said board of park commissioners shall be made defendants, praying that such proceedings may be had and such order or decree entered as may be necessary or proper to protect the interests of the said petitioner or complainant in said shore lands. The defendants shall be served with process in the same manner as in suits of chancery and the proceedings in said cause shall be conducted in the same manner as in other suits in chancery, and the court shall have power by its final decree, upon such terms and conditions as it may deem reasonable and fair, to transfer to said board of park commissioners all the riparian rights of the petitioner or complainant, and also to establish the boundary line between the lands owned by the petitioner or complainants, and the lands of said board of commissioners. (As amended by act approved May 14, 1903. In force July 1, 1903. L. 1903, p. 260; Legal News Ed., p. 210.)

Submerged Lands—Uses for which held.) Sec. 3. The submerged lands thus granted and the shore lands together with the riparian rights thus acquired in accordance with the preceding sections, the said commissioners shall hold for the following uses:

First—For the purpose of constructing and maintaining the boulevard or driveway as in said plan located.

Second—For the purpose of filling, reclaiming, improving, maintaining and holding such portions as are so designated upon said plan, as a public park.'

FOR THE ORGANIZATION OF PARK DISTRICTS AND THE TRANSFER OF SUBMERGED LANDS, ETC.

"An act to provide for the organization of park districts and the transfer of submerged lands to those bordering on navigable bodies of water. (Approved June 24, 1895. In force July 1, 1895. L. 1895, p. 272; Legal News Ed. * * *

When park district borders upon navigable water, etc.—Power of Board as to submerged land, etc.) Sec. 16. When any park district created under this act borders upon any navigable body of water, the title to the bed or submerged land of which is vested in the State of Illinois, said district may take possession of, inclose, fill in, reclaim and protect any portion of such submerged land bordering thereon, over which there shall be shoal and shallow water not fit for navigation and shall have the power to establish, construct and maintain parks and boulevards over and upon the same, and all right, title and interest of the State of Illinois in and to the bed or submerged land of such body of water, so taken possession of, enclosed, filled in and reclaimed is hereby granted and ceded to such park district and the title thereto shall vest in such park district to be held for the use and benefit of the public as a part of said park district for park and boulevard purposes exclusively, and said district shall have power for the purpose of reclaiming such submerged land and protecting the same thereafter to construct all necessary break-waters, or protection for the building and maintenance of such parks and boulevards, and the enclosing or reclamation of such submerged lands.

Any such sumberged lands so enclosed and reclaimed as aforesaid shall forever be held and maintained for park and boulevard purposes and no portion thereof shall ever be granted or ceded away by any district for any purpose, and in case the same should ever cease to be used for park or boulevard purposes, then the title to the same shall revest in

the State of Illinois, together with all the improvements thereon and the appurtenances thereof. * * *."

LAKE FRONT CHANGED TO GRANT PARK.

"An Act to convey and designating certain submerged lands known as 'lake front' for park purposes. (Approved April 24, 1899. In force July 1, 1899, L. 1899, p. 328; Legal News Ed., p. 242.)

Whereas, Many Grand Army posts, members of the Grand Army, civic organizations and clubs, and citizens of the city of Chicago, and State of Illinois, have petitioned the General Assembly to name and designate by act, the park which is making and about to be made upon the lake front in the city of Chicago; and

Whereas, The title to the land in Chicago, commonly known and designated as the 'lake front,' lying along the lake shore, and extending south of Randolph street, north of Park Row, and East of Michigan avenue, and a part of which is yet submerged under the waters of Lake Michigan, but the reclamation of which is contemplated and being now undertaken by the filling in from the present shore line hereafter, is still, we believe, in the State of Illinois; and

Whereas, The City of Chicago, by the action of the city council, has formally transferred the possession, care, improvement and management of said 'lake front,' to what is known as the 'Board of South Park Commisioners,' for the express purpose of establishing a public park and pleasure ground thereon, but the title to which not being vested in said 'Board of South Park Commissioners' said board is prevented and delayed from carrying out and perfecting the plans necessary for the proper development and improvement of a public park in said 'lake front,' and in discharging all their obligations and duties in that behalf, as contemplated and planned by said 'Board of South Park Commissioners'; and

Whereas, There are now in the city of Chicago a number of public parks and squares named respectively after such illustrious statesment, heroes and scientists as Washington, Lincoln, Jackson, Jefferson, Sheridan, Garfield, Douglas, Logan, Dearborn and Humboldt but not one named after the great silent soldier of Illinois, U. S. Grant; therefore

Boundaries defined and conveyed to South Park Commissioners.) Sec. 1. That the land or lands located in the city of Chicago, county of Cook, and State of Illinois, bounded on the north by the north line of Monroe Street, produced east to the outer sea wall or harbor line, established by the secretary of war, September 22, 1890, in Lake Michigan, and bounded on the east by said outer sea wall or harbor line, and bounded on the south by the south line of the street known as Lake Park Place (formerly known as Park Row), produced east to said outer sea wall or harbor line, and bounded on the west by the east line of Michigan avenue, which land is commonly known and designated as the 'lake front,' including all submerged land lying west of said outer sea wall or harbor line, and between said north and south boundary lines above described shall be, and are hereafter to be called, designated and known as 'Grant Park,' and said 'Grant Park,' is hereby conveyed to the south park commissioners, to be held, managed, and controlled by said commissioners, as other parks are now under their control; except, however, that portion of said 'Grant Park,' lying north of the north *of the north,* line of Jackson Street, extended east from Michigan avenue to the said outer sea wall or harbor line, and except also the right of way, easements, and grounds of the Illinois Central Railroad Company, extending north and south through said 'Grant Park,' as described in an ordinance of the city council of the city of Chicago, passed October 21, 1895, and published by authority of the city council in 1898, in Volume two (2), of Special Ordinances of Chicago, at page 657. (As amended by act approved May 10, 1901. In force July 1, 1901. L. 1901, p. 260; Legal News Ed., p. 207.

TO ENLARGE AND CONNECT PARKS BORDERING ON PUBLIC WATERS BY EXTENSIONS OVER LANDS AND BEDS OF THE WATERS.

Power to extend or connect park or driveway over bed of waters—May acquire riparian or other rights—eminent domain.) Sec. 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly: That every board of park commissioners existing under the laws of this State, which has now, or may hereafter have, or acquire, control over any public park, boulevard or driveway, bordering upon any public waters in this State, shall have the power to extend such park, boulevard or driveway over and upon the bed of such public waters, and that every board of park commissioners existing under the laws of this state, which now has, or may hereafter have or acquire, control over two or more separate public parks, whether they constitute a part of one park system or not, bordering upon any public waters in this State, shall have power to connect the same by constructing a park, boulevard, driveway or parkway, extending over and upon the submerged land and bed of such public waters, and over and upon any lands adjacent to or adjoining upon or penetrating into such waters, and may extend any such park by constructing a park, boulevard, driveway or parkway over any private property, and over any navigable river or any part thereof which lies within the territory, the property of which shall be taxable for the maintenance of the park under the control of said board of park commissioners, so as to connect such park, boulevard, driveway, or parkway with any park, boulevard, driveway or parkway now or hereafter constructed, and connected with or forming a part of any other park system; and in extending such park or in constructing such park, boulevard, driveway or parkway, the said board of park commissioners may construct such viaducts, bridges or tunnels, or parts of viaducts, bridges or tunnels, within its said territory as to it may seem necessary, and that every such

board of park commissioners may acquire the lands, or the riparian or other rights of the owners of lands, or both, whether of individuals or corporations, on the shores adjacent to or adjoining the public waters or rivers in which it is proposed to construct any such park, boulevard, driveway or parkway, or extension or connection, also the title of the private or public owners, if any there be, to lands lying beneath, adjacent to or adjoining such public waters or rivers, also the title of any lands penetrating into such public waters and the title of any lands into, upon or over which it is proposed to construct any such park, boulevard, driveway or parkway or any such extension or connection, or any viaduct, bridge or tunnel forming a part thereof, by contract with or deed from any such owner or owners, whether individuals or corporation, or by condemnation; Provided, however, that no extension which shall be made shall interfere with the practical navigation of such public waters or rivers for the purposes of commerce, without due authority from the proper official of the United States government having control thereof. Said board of park commissioners and said riparian or adjacent owners are hereby authorized to agree upon a boundary line dividing such adjacent, adjoining, submerged and penetrating lands, acquired or to be acquired by said board of park commissioners, and such adjacent, adjoining, submerged and penetrating lands to be taken, owned and used by said riparian or other owners in lieu of and as compensation for the release of said lands and riparian rights to said board of park commissioners. In case said board of park commissioners are unable to agree with and (any) such owner or owners or persons interest, either as to such boundary or dividing line and such lands to be taken by such riparian or other owners and persons interested as compensation for the release and granting of said lands and riparian or other rights or in case the compensation to be paid for or in respect of the property, riparian or other rights, the adjacent, adjoining, submerged and penetrating or other lands sought to be appropriated or damaged for the pur-

poses mentioned in this act, cannot be agreed upon by the parties interested, or in case the owner of the property is incapable of consenting, or his name or residence is unknown, or he is a non-resident of the State, or, if in any event, the said board of park commissioners shall elect to acquire the riparian or other rights, or the adjacent, adjoining, submerged and penetrating or other lands, or any such rights or lands, proceedings may be had to condemn the said riparian or other rights and the said adjacent, adjoining, submerged and penetrating or other lands, or any of them, according to the provisions of an act entitled, 'An Act to provide for the exercise of the right of eminent domain,' approved April 10, 1872, in force July 1, 1872, and amendments thereto. * * *

Title vested in Board.) Sec. 4. The title to any such extension or connection of such park or parks, boulevards, driveways and parkways, and to the bed thereof shall be, and hereby becomes vested in such board of park commissioners for public purposes, and the same shall thereby become a part of the public park or parks under the control of such board, and shall thenceforth be maintained and controlled by such board in the manner provided by law, for the government and maintenance of other parks, boulevards and driveways under its control, and in all cases where any boulevard, driveway or parkway is extended, or constructed, under the provisions of this act, the title to the submerged lands lying between the shore of such public waters, and the inner line of the extension of such boulevard, driveway or parkway, shall be, and thereby becomes vested in such board of park commissioners for public purposes; and in case any such park, boulevard, driveway or parkway, extension or connection as provided in this act, shall be made into, over or upon the bed of Lake Michigan by any such board of park commissioners, then the right, title and interest of the State of Illinois in and to the bed of so much of said Lake Michigan shall be vested in such board of park commissioners as in other cases provided in this act,

and for the same purposes and with the same rights and power."

CONVEYING LAKE FRONT AND SUBMERGED LANDS TO SOUTH PARK COMMISSIONERS FOR PARK PURPOSES.

"An Act conveying certain lands to the South Park Commissioners for the purpose of establishing a Public Park or Pleasure Ground thereon. (Approved and in force May 14, 1903. L. 1903, p. 268; Legal News Ed., p. 216.)

241. Conveyance of Lake Front Land to South Park Commissioners.) Sec. 1. Be it Enacted by the People of the State of Illinois represented in the General Assembly: That the land, including all submerged land, known as Grand Park, in the City of Chicago, County of Cook and State of Illinois, bounded on the north by the south line of Randolph street extended in a straight line east from Michigan avenue to the harbor line established by the Secretary of War in Lake Michigan, and bounded on the east by said harbor line, and bounded on the south, east of the right of way, easement and grounds of the Illinois Central Railroad Company, by the south line of the street known as Lake Park place (formerly known as Park Row) extended in a straight line east from Michigan avenue to said harbor line, and west of said right of way, easement and grounds by the north line of said Lake Park place, and bounded on the west by the east line of Michigan avenue, excepting, however, the right of way, easement and grounds of the Illinois Central Railroad Company extending north and south through said Grant Park as described in an ordinance of the city council of the City of Chicago, passed October 21, 1895, and published by authority of said council in 1898 in volume 2 of Special Ordinances of the City of Chicago, at page 657, be and the same is hereby conveyed to the South Park Commissioners, to be held, managed and controlled by said commissioners as other parks now are under the control of said Commissioners."

Conveying Certain Lands to South Park Commissioners.

"An Act conveying certain lands to the South Park Commissioners for the purpose of establishing public parks and pleasure grounds thereon. (Approved May 14, 1903. In force July 1, 1903. L. 1903, p. 268; Legal News Ed., p. 218.

Certain Lands Conveyed to South Park Commissioners.) Sec. 1. Be it enacted by the People of the State of Illinois represented in the General Assembly: That the land including all submerged and artificially made lands lying within the south boun dary line of Jackson Park and the south line of Seventy-ninth street as extended one thousand feet into Lake Michigan and a line easterly of and parallel with the shore line of said lake and the shore line of such lake, and also the land including all submerged and artificialy made land lying within the north line of Ninety-fifth street extended to its intersection with the boundary line of Indiana and Illinois as extended and the shore line of Lake Michigan, all of such lines being situated in the City of Chicago, County of Cook, and the State of Illinois, be, and the same are hereby granted and conveyed to the Board of South Park Commissioners and their successors in office, to be held, managed and controlled by them for the same uses and purposes as other parks now under their control."

MAPS

TOO

LARGE

FOR

FILMING